

**Introduced by Senator Hancock**

February 17, 2012

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An act to add Chapter 3.5 (commencing with Section 22120) to Part 3 of Division 2 of the Public Contract Code, relating to public contracts.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1125, as introduced, Hancock. Local government contracts: seller's permits and certificates of registration.

The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of, tangible personal property purchased from a retailer for storage, use, or other consumption in this state. Existing law, except under specified circumstances, prohibits the state from contracting with a vendor, contractor, or affiliate of a vendor or contractor that does not possess a seller's permit or a certificate of registration.

This bill would, except under specified circumstances, prohibit a local government entity from contracting with a vendor, contractor, or an affiliate of a vendor or contractor that does not possess a seller's permit or a certificate of registration.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Chapter 3.5 (commencing with Section 22120)  
2     is added to Part 3 of Division 2 of the Public Contract Code, to  
3     read:

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5     CHAPTER 3.5. PERMIT OR CERTIFICATION REQUIREMENT FOR  
6     SELLER CONTRACTS WITH LOCAL GOVERNMENT  
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8     22120. (a) A local government entity shall not contract for the  
9     purchase of tangible personal property from a vendor, contractor,  
10    or an affiliate of a vendor or contractor unless that vendor,  
11    contractor, and all of its affiliates that make sales for delivery into  
12    California are holders of a California seller's permit issued pursuant  
13    to Article 2 (commencing with Section 6066) of Chapter 2 of Part  
14    1 of Division 2 of the Revenue and Taxation Code, or are holders  
15    of a certificate of registration issued pursuant to Section 6226 of  
16    the Revenue and Taxation Code.

17    (b) Beginning on and after January 1, 2013, each vendor,  
18    contractor, or affiliate of a vendor or contractor that is offered a  
19    contract to do business with a local government entity shall submit  
20    to that local government entity a copy, as applicable, of that  
21    retailer's seller's permit or certificate of registration, and a copy  
22    of each of the retailer's applicable affiliate's seller's permit or  
23    certificate of registration, as described in subdivision (a). This  
24    subdivision does not apply to a credit card purchase of goods of  
25    two thousand five hundred dollars (\$2,500) or less, not to exceed  
26    seven thousand five hundred dollars (\$7,500) per year for each  
27    company from which a local government entity is purchasing goods  
28    by credit card. Each local government entity shall monitor the use  
29    of this exemption and adhere to these restrictions.

30    (c) A local government entity is exempted from the provisions  
31    of subdivision (a) if the governing body of the local government  
32    entity, or a person delegated authority by the governing body of  
33    the local government entity, makes a written finding that the  
34    contract is necessary to meet a compelling local government  
35    interest.

36    (d) For the purposes of this section:

1 (1) “Affiliate of the vendor or contractor” means any person or  
2 entity that is controlled by, or is under common control of, a vendor  
3 or contractor through stock ownership or any other affiliation.

4 (2) “Compelling local government interest” includes, but is not  
5 necessarily limited to, the following:

6 (A) Ensuring the provision of essential services.

7 (B) Ensuring the public health, safety, and welfare.

8 (C) Responding to an emergency, as defined in Section 1102.

9 (3) “Local government entity” means a city, county, city and  
10 county, community college district, school district, county  
11 superintendent of schools, or special district located in California.  
12 For purposes of this section, “special district” means a legally  
13 constituted governmental entity established for the purpose of  
14 carrying on specific activities with defined boundaries.

15 SEC. 2. If the Commission on State Mandates determines that  
16 this act contains costs mandated by the state, reimbursement to  
17 local agencies and school districts for those costs shall be made  
18 pursuant to Part 7 (commencing with Section 17500) of Division  
19 4 of Title 2 of the Government Code.